

United States District Court
District of North Dakota

Energy Heating, LLC, an Idaho limited liability company;
Rocky Mountain Oilfield Services, LLC, an Idaho limited
liability company,

Plaintiff/Counterclaim Defendants,

vs.

Heat On-The-Fly, LLC, a Louisiana limited liability company,
and Super Heaters North Dakota, a North Dakota limited
liability company,

Defendants,

and

Heat On-The-Fly, LLC, a Louisiana limited liability company,
Counterclaimant.

Heat On-The-Fly, LLC, a Louisiana limited liability company,
Third-Party Plaintiff/Counterclaim

Defendant,

vs.

Marathon Oil Corporation,

Third-Party Defendant/ Counterclaimant.

SECOND AMENDED
JUDGMENT IN A CIVIL CASE

Case No. 4:13-cv-10



Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.



Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.



Decision on Motion. This action came before the Court on motion. The issues have been considered and a decision rendered.



Stipulation. This action came before the court on motion of the parties. The issues have been resolved.



Dismissal. This action was voluntarily dismissed by Plaintiff pursuant to Fed. R. Civ. P. 41(a)(1)(ii).

IT IS ORDERED AND ADJUDGED:

Pursuant to the Order filed at Docket # 616:

1. The trademark for "Heat On-The-Fly" is INVALID and unenforceable as it is a generic term.
2. The claim for the tort of Deceit is DISMISSED WITH PREJUDICE.
3. DAMAGES in the amount of \$750,000 are AWARDED for the intentional tortious conduct of HOTF.
4. The court DECLINES to order prejudgment interest.

Pursuant to the Order filed at Docket # 619:

HOTF's inequitable conduct renders the '993 Patent unenforceable. Energy Heating and Marathon's claims for Declaratory Judgment on the issue of Inequitable Conduct are GRANTED.

Pursuant to the Order filed at Docket #677:

Plaintiffs motion for exemplary damages is DENIED. Plaintiff's motion for an award of attorney fees and non-taxable costs is DENIED. Plaintiff's motion for taxable costs is GRANTED in the amount of \$67,085.77. Marathon's motion for costs is GRANTED in the amount of \$47,563.48. Marathon's motion to fins this case exceptional and to award attorneys' fees and non-taxable costs is DENIED.

Date: March 16, 2016

ROBERT J. ANSLEY, CLERK OF COURT

by: /s/ Ashley Sanders, Deputy Clerk